

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEREK WASHINGTON,

Plaintiff,

- against -

CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER
EDWIN SIMON, POLICE OFFICER DAVID
TERRELL, POLICE OFFICER ERIC CAMPBELL,
POLICE OFFICER LAHMAR SANDERS, POLICE
OFFICER ROBERT SANDERS and POLICE
OFFICER KEVIN LONERGAN,

Defendants.

Index No: 07CV 2648

VERIFIED AMENDED
COMPLAINT

Trial by Jury Demanded

Plaintiff, DEREK WASHINGTON, by his attorneys, NEWMAN & OKUN, P.C., as and for his Complaint, respectfully alleges, upon information and belief:

1. The plaintiff, DEREK WASHINGTON, at all times herein mentioned was a resident of the County of Kings and the State of New York.
2. The defendant, CITY OF NEW YORK, at all times herein mentioned, was and still is a municipal corporation organized and existing under the laws of the State of New York, with its principal place of business situated in the County of New York and the State of New York.
3. At all times hereinafter mentioned, defendant, CITY OF NEW YORK, maintained, controlled, operated and supervised defendant, NEW YORK CITY POLICE DEPARTMENT.
4. This action is brought pursuant to 42 U.S.C. Section 1983; therefore, jurisdiction and venue are proper.
5. At all times herein mentioned, defendants are subject to the jurisdiction of this Court.
6. At all times herein mentioned, defendant, POLICE OFFICER EDWIN SIMON, was a police officer employed by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.
7. At all times herein mentioned, defendant, POLICE OFFICER DAVID TERRELL,

was a police officer employed by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.

8. At all times herein mentioned, defendant, POLICE OFFICER ERIC CAMPBELL, was a police officer employed by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.

9. At all times herein mentioned, defendant, POLICE OFFICER LAHMAR SANDERS, was a police officer employed by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.

10. At all times herein mentioned, defendant, POLICE OFFICER ROBERT SANDERS, was a police officer employed by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.

11. At all times herein mentioned, defendant, POLICE OFFICER KEVIN LONERGAN, was a police officer employed by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.

12. Upon information and belief, in committing the acts alleged in the complaint, defendant, POLICE OFFICER EDWIN SIMON, was acting in the course and scope of their agency, employment, service and authority, express and implied.

13. Upon information and belief, in committing the acts alleged in the complaint, defendant, POLICE OFFICER DAVID TERRELL, was acting in the course and scope of their agency, employment, service and authority, express and implied.

14. Upon information and belief, in committing the acts alleged in the complaint, defendant, POLICE OFFICER ERIC CAMPBELL, was acting in the course and scope of their agency, employment, service and authority, express and implied.

15. Upon information and belief, in committing the acts alleged in the complaint, defendant, POLICE OFFICER LAHMAR SANDERS, was acting in the course and scope of their agency, employment, service and authority, express and implied.

16. Upon information and belief, in committing the acts alleged in the complaint,

defendant, POLICE OFFICER ROBERT SANDERS, was acting in the course and scope of their agency, employment, service and authority, express and implied.

17. Upon information and belief, in committing the acts alleged in the complaint, defendant, POLICE OFFICER KEVIN LONERGAN, was acting in the course and scope of their agency, employment, service and authority, express and implied.

AS AND FOR A FIRST CAUSE OF ACTION

18. Plaintiff, DEREK WASHINGTON, repeats and realleges each and every allegation of the paragraphs numbered "1" through "17" with the same force and effect as if fully set forth herein.

19. On August 1, 2006, at approximately, 11:45 a.m. plaintiff, DEREK WASHINGTON, resided at the premises located at 1073 Prospect Place, Brooklyn, New York

20. On August 1, 2006, at approximately, 11:45 a.m. plaintiff, DEREK WASHINGTON, went to the scene of his fiancée's accident at or near the intersection of Kingston Avenue and Dean Street, Brooklyn, New York

21. On August 1, 2006, at approximately, 11:45 a.m. defendants, POLICE OFFICER EDWIN SIMON, POLICE OFFICER DAVID TERRELL, POLICE OFFICER ERIC CAMPBELL, POLICE OFFICER LAHMAR SANDERS, POLICE OFFICER ROBERT SANDERS and POLICE OFFICER KEVIN LONERGAN, did prevail upon the location at the premises located at the intersection of Kingston Avenue and Dean Street, Brooklyn, New York .

22. At the aforesaid place and time, defendants, POLICE OFFICER EDWIN SIMON, POLICE OFFICER DAVID TERRELL, POLICE OFFICER ERIC CAMPBELL, POLICE OFFICER LAHMAR SANDERS, POLICE OFFICER ROBERT SANDERS and POLICE OFFICER KEVIN LONERGAN, did cause plaintiff, DEREK WASHINGTON, to be unlawfully assaulted and battered, without cause or provocation.

23. The aforesaid assault and battery were caused by defendants, POLICE OFFICER EDWIN SIMON, POLICE OFFICER DAVID TERRELL, POLICE OFFICER ERIC CAMPBELL, POLICE OFFICER LAHMAR SANDERS, POLICE OFFICER ROBERT SANDERS and POLICE

OFFICER KEVIN LONERGAN, there within the scope of their employment by defendants, NEW YORK CITY POLICE DEPARTMENT and CITY OF NEW YORK.

24. As a result of the aforesaid assault and battery, plaintiff, DEREK WASHINGTON, was severely and seriously injured, both physically and mentally, requiring extensive medical and hospital treatment and expenses, and is entitled to damages in excess of the monetary jurisdictional limits of this Court.

AS AND FOR A SECOND CAUSE OF ACTION

25. Plaintiff, DEREK WASHINGTON, repeats and realleges each and every allegation of the paragraphs numbered "1" through "24" with the same force and effect as if fully set forth herein.

26. Following the aforementioned assault and battery, plaintiff was caused to be falsely arrested and imprisoned without probable cause by an officer employed by the defendant, NEW YORK CITY POLICE DEPARTMENT, and acting within the course of his employment.

27. As a result of all the foregoing plaintiff, DEREK WASHINGTON, was caused to sustain serious physical and emotional injuries, loss of liberty, and is entitled to damages.

AS AND FOR A THIRD CAUSE OF ACTION

28. Plaintiff, DEREK WASHINGTON, repeats and realleges each and every allegation of the paragraphs numbered "1" through "27" with the same force and effect as if fully set forth herein.

29. Said police officers carelessly and negligently used excessive force against the plaintiff, DEREK WASHINGTON, in the course of effecting the aforementioned arrest.

30. As a result of the excessive force and negligence, plaintiff was severely and seriously injured both physically and mentally, requiring extensive medical and hospital treatment.

31. By reason of all the foregoing, plaintiff, DEREK WASHINGTON is entitled to damages.

AS AND FOR A FOURTH CAUSE OF ACTION

32. Plaintiff, DEREK WASHINGTON, repeats, reiterates and realleges each and every

allegation of the paragraphs numbered "1" through "21" with the same force and effect as if fully set forth herein.

33. Defendants, CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, through its agents, servants, and/or employees, were negligent in the screening, hiring, training, retention and supervision of its employees and failed to take such necessary and proper steps as to prevent the aforesaid occurrence.

34. As a result of the defendants' negligence, plaintiff, DEREK WASHINGTON, was caused to sustain serious injuries, both physically and mentally, requiring medical and hospital treatment and expenses.

35. By reason of the foregoing, plaintiff, DEREK WASHINGTON, is entitled to damages in excess of the monetary jurisdictional limits of this Court.

AS AND FOR A FIFTH CAUSE OF ACTION

36. Plaintiff, DEREK WASHINGTON, repeats, reiterates and realleges each and every allegation of the paragraphs numbered "1" through "35" with the same force and effect as if fully set forth herein.

37. Defendants, CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, through its agents, servants, and/or employees, did under color of law, deprive plaintiff, DEREK WASHINGTON, of his rights, privileges, and immunities secured by the Constitution of the United States of America, and the laws thereunder, pursuant to Title 42 of the United States Code, Sections 1981, 1983, and 1985, and the Constitution of the State of New York.

38. The plaintiff was falsely, wrongfully, maliciously, intentionally and illegally detained, imprisoned and incarcerated by the defendants on July 14, 2006.

39. By reason of the foregoing, the plaintiff, DEREK WASHINGTON, was caused to suffer severe and serious injuries and damages both physically and mentally, suffered grievous harm, embarrassment, defamation of character, damages to his good name character and reputation, and plaintiff, was subject to extreme humiliation, scorn, contempt, derision and ridicule.

40. At the time of the incident alleged herein, defendants and/or their agents, servants and employees at all times herein alleged were acting under the color of governmental authority.

41. The plaintiff was assaulted and arrested by the defendants herein under the color of governmental authority.

42. The plaintiff's civil rights were abridged and violated by the defendants in that they arrested him without due cause, incarcerated him against his will and without due process of the law, falsely imprisoned him and deprived him freedom and liberty, assaulted him and failed to protect him against physical assault, and caused him serious and significant personal injuries, all under governmental authority.

43. That no culpable conduct on the part of the plaintiff contributed to the occurrence alleged herein in any matter whatsoever.

44. By reason of the foregoing, plaintiff, DEREK WASHINGTON, was severely and seriously injured, both physically and mentally, requiring extensive medical and hospital treatment and expenses, and is entitled to damages in excess of the monetary jurisdictional limits of this Court.

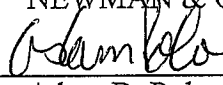
45. By reason of the foregoing, plaintiff, DEREK WASHINGTON, has been damaged by the defendants; CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICER EDWIN SIMON, POLICE OFFICER DAVID TERRELL, POLICE OFFICER ERIC CAMPBELL, POLICE OFFICER LAHMAR SANDERS, POLICE OFFICER ROBERT SANDERS and POLICE OFFICER KEVIN LONERGAN, and is entitled to damages in excess of the monetary jurisdictional limits of this Court.

WHEREFORE, the plaintiff demands:

- a. judgment awarding damages on the First Cause of Action, in an amount exceeding the monetary jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- b. judgment awarding damages on the Second Cause of Action, in an amount exceeding the monetary jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- c. judgment awarding damages on the Third Cause of Action, in an amount exceeding the monetary jurisdictional limits of all lower courts which would otherwise have jurisdiction;

- d. judgment awarding damages on the Fourth Cause of Action, in an amount exceeding the monetary jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- e. judgment awarding damages on the Fifth Cause of Action, in an amount exceeding the monetary jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- f. costs of this action, including reasonable attorney's fees to the plaintiff pursuant to the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. §1988 (1976);
- g. interest, the costs and disbursements of this action, together with such other and further relief this Court deems just and proper.

Dated: New York, New York
November 28, 2007

NEWMAN & OKUN, P.C.
By: 
Adam D. Polo, Esq. (ADP-8912)
Attorneys for Plaintiff
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(212) 642-0950
File: 6032

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEREK WASHINGTON,

Plaintiff,

- against -

CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER
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TERRELL, POLICE OFFICER ERIC CAMPBELL,
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OFFICER ROBERT SANDERS and POLICE
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Defendants.

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VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

The undersigned, an attorney admitted to practice in the Courts of New York, hereby affirms under all the penalties of perjury that affiant is ADAM D. POLO, the attorney of record for the plaintiff of this within action; that affiant has read the foregoing AMENDED COMPLAINT, knows the contents thereof; that the same is true to affiant's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that those matters affiant believes to be true. Affiant further states that the reason this verification is made by affiant and not by plaintiff is that affiant maintains his office in a county other than the one in which plaintiff resides. The grounds of affiant's belief as to all matters not stated upon affiant's knowledge is as follows: Notes and papers in file and conversations with plaintiff.

Dated: New York, New York
November 28, 2007


ADAM D. POLO